260

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2718-2019 (O&M)
XOBJC-37-2020 (O&M)
Date of Decision : 17.02.2026

Iffco Tokio General Insurance Company Limited ... Appellant(s)

Versus

Raj Bohra & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.S. Sidhu, Advocate for the appellant.

Mr. Rahul Jaswal, Advocate
for respondent Nos.1 to 5/cross-objectors.

ALKA SARIN, J. **(Oral)**

CM-9224-CII-2019

1. For the reasons mentioned therein, the application seeking condonation of delay of 06 days in filing the appeal is allowed and the delay of 06 days in filing the appeal is condoned.

CM-9225-CII-2019

2. For the reasons mentioned therein, the application seeking condonation of delay of 66 days in refiling the appeal is allowed and the delay of 66 days in refiling the appeal is condoned.

CM-3664-CII-2020

3. For the reasons mentioned therein, the application seeking condonation of delay of 18 days in filing the cross-objections is allowed and the delay of 18 days in filing the cross-objections is condoned.

<u>FAO-2718-2019 & XOBJC-37-2020</u>

4. The present order shall dispose off the appeal being **FAO-2718-2019** filed by the appellant-Insurance Company and the cross-objections being **XOBJC-37-2020** filed by the claimants-respondent Nos.1 to 5/cross-objectors challenging the quantum of compensation awarded vide the impugned award dated 17.09.2018 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal') in a motor vehicle accident took place on 22.10.2016.

5. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

6. The Tribunal in the present case had awarded the following compensation :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹20,000/-
2	Annual Income	₹2,40,000/- [₹20,000 x 12]
3	Deduction - 1/4th	₹1,80,000/- [₹2,40,000 - ₹60,000]
4	Future Prospects - 25%	₹2,25,000/- [₹1,80,000 + ₹45,000]
5	Multiplier - 13	₹29,25,000/- [₹2,25,000 x 13]
6	Loss of estate	₹15,000/-
7	Funeral expenses	₹15,000/-
8	Loss of consortium	₹40,000/-
	Total Compensation	**₹29,95,000/-**
	Interest	**7.5%**

7. The only argument raised by the learned counsel for the appellant-Insurance Company is that the income of the deceased has wrongly been assessed as ₹20,000/- per month inasmuch as the salary certificate pertained to October 2015 and the date of accident is 22.10.2016 i.e. one year prior to the accident. It is further contended that there was another certificate which had been produced on the record and there was discrepancy in both the

certificates as well. Learned counsel would contend that it is only the computerized record which was produced on record.

8. *Per contra*, the learned counsel for the claimant-respondent Nos.1 to 5/cross-objectors has contended that he does not challenge the deduction, future prospects and the multiplier as applied by the Tribunal. He, however, states that the Tribunal has only assessed the income as ₹20,000/- by deducting the travelling allowance whereas the gross salary of the deceased ought to have been taken into consideration. In support of his contentions, the learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. v. Nalini & Ors. [2024 (2) PLR 671].** Learned counsel has further relied upon the judgment of the Hon'ble Supreme Court in the case of **Karuna Parmar Vs. Prakash Sinha & Ors. [2025 (1) TAC 730; 2025 INSC 1244]** to contend that the capacity of the deceased to earn has to be seen and in the said injury case though the claimant worked as a Professor in the year 2012 i.e. two years prior to the accident, however, her income was assessed more than the last drawn wages. It is further the contention of the learned counsel that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

9. I have heard the learned counsel for the parties.

10. In the present case, the only challenge is to the quantum of compensation by the Insurance Company as well as the claimants.

11. The argument of the learned counsel for the appellant-Insurance Company that the income has wrongly been assessed as ₹20,000/- since the salary certificate pertained to October 2015 and the accident had taken place almost a year later, deserves to be rejected. In the present case, the salary statements of the deceased were proved on record as Ex.P3 to Ex.P22 and as per Ex.P3, his income was ₹25,000/- per month. The said figure accurately reflects the earning capacity of the deceased at the time of his death. Hon'ble Supreme Court in the case of **Karuna Parmar** (supra) has held as under :

> *"10. We are unable to agree with the view taken by the Tribunal on the salary of Appellant No.1. It is borne from the record that she was working as a professor till the year 2012 (two years prior to the accident) and drawing a salary of Rs.16,000/- per month. It is true that at the time of the accident, she was not holding such a position. However, it is imperative to note that the accident took away such potential income of the Appellant. It is not a case where the Appellant had left the field of education, as she was still imparting tuition. In our view, it is necessary to include her income as a professor, since it most accurately reflects her earning capacity at the time of the accident. Therefore, it is proper to take the income of Appellant No.1 as Rs.26,000/- per month."*

12. The argument of learned counsel for the claimant-respondent Nos.1 to 5/cross-objectors that while assessing the income of the deceased, his gross salary ought to have been taken into consideration and not by deduction of allowances deserves to be accepted. Hon'ble Supreme Court in the case of **Nalini & Ors.** *(supra)* has held as under :

"2. The aforesaid aspect is no longer res integra inasmuch as a three Judges Bench of this Court in Vijay Kumar Rastogi Vs. Uttar Pradesh State Roadways Transport Corporation [2018 SCC Online SC 193] has clearly held as follows:

> *"11. Strikingly, the High Court noted the taxable income disclosed in tax return of the appellant for the relevant period as Rs.77,480/- (rounded off) and tax deduction of Rs.4,496/-, yet proceeded to hold that the net income of the appellant has been rightly taken into consideration by the Tribunal. It is unfathomable that the High Court, despite having accepted the claim of the appellant founded on his tax return for the relevant period, disclosing the taxable income of the appellant as Rs.77,480/- (rounded off) and deduction of tax of Rs.4,496/- could have affirmed the conclusion of the Tribunal that the net annual income of the appellant was Rs. 44,511/-. It ought to have reckoned the taxable income for computing the head towards loss of income. This, in our opinion, is the manifest error committed by the High Court. The appellant is justified in relying upon the decisions of this Court which have taken the view that loss of taxable earning should be reckoned for the purpose of determining just compensation as enunciated in National Insurance Co. Ltd. v. Indira Srivastava [(2008) 2 SCC 763], which has been followed in Oriental Insurance Company Limited v. Jashuben [(2008) 4 SCC 162], and Kavita v. Deepak [(2012) 8 SCC 604] . It has been held that the "income" should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income*

> *tax or professional tax, although some elements thereof may, or may not be taxable due to the exemption conferred thereupon under the statute."*
>
> *[emphasis added]*
>
> *3. It is apparent from the observations made in the aforesaid decision that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, which are described by learned counsel for the petitioner-Insurance Company as personal to him to arrive at the dependency factor, ought to be included irrespective of whether they are taxable or not."*

13. In the present case, the Tribunal while assessing the income has not only deducted the travelling allowance but has also taken an average of the salary certificates. The last drawn salary of the deceased was ₹25,000/- including the travelling allowance. There is no evidence to the contrary. Infact PW1 – Manoj Sharma – Manager of M/s Anand Tex International Private Limited was subjected to lengthy cross-examination, however, nothing could be elicited from him to even remotely suggest that the salary record was forged or fabricated. In the absence of any evidence to the contrary, the last drawn salary would have been seen as the capacity of the deceased to earn. In view thereof, the income of the deceased is assessed as ₹25,000/- per month.

14. Further, the compensation awarded under the conventional heads and under the head 'loss of consortium' is not as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), hence, the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants (mother, widow and three children of the

deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Since there is no dispute to the deduction, future prospects and the multiplier as applied by the Tribunal, the same are accordingly maintained. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly Income	₹25,000/-
2	Annual Income	₹3,00,000/- [₹25,000 x 12]
3	Deduction - 1/4th	₹2,25,000/- [₹3,00,000 - ₹75,000]
4	Future Prospects - 25%	₹2,81,250/- [₹2,25,000 + ₹56,250]
5	Multiplier - 13	₹36,56,250/- [₹2,81,250 x 13]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 3] (ii) Filial [₹48,000/- x 1] (iii) Spousal	 ₹1,44,000/- ₹48,000/- ₹48,000/- (Total ₹2,40,000/-)
	Total Compensation	**₹39,32,250/-**

15. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

16. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the direction of the Tribunal and the share of the minor claimants shall be kept in fixed deposits by the Bank concerned. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by

the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

17. In view of the above discussion, the impugned award passed by the Tribunal stands modified accordingly. The appeal filed by the Insurance Company is dismissed and the cross-objections filed by the claimants are allowed. Pending applications, if any, also stand disposed off.

17.02.2026
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO